

ORIGINAL

FILED  
SUPERIOR COURT  
THURSTON COUNTY WASH

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BETTY J. GOULD CLERK

BY \_\_\_\_\_  
DEPUTY

1 ☒ EXPEDITE  
2 ☐ No Hearing is Set  
3 ☐ Hearing is Set  
4 Date:  
5 Time:

7 **STATE OF WASHINGTON**  
8 **THURSTON COUNTY SUPERIOR COURT**

9 MIKE KREIDLER,  
10 INSURANCE COMMISSIONER,

Petitioner,

11 v.

12 CASCADE NATIONAL  
13 INSURANCE COMPANY,

14 Respondent.  
15

NO. 04-2-02427-4

**EX PARTE**

**ORDER APPOINTING RECEIVER  
FOR THE PURPOSE OF SEIZING  
A DOMESTIC INSURER**

16 THIS MATTER having come on regularly before the Court on the Verified  
17 Petition For the Appointment of Receiver for the Purpose of Seizing a Domestic  
18 Insurer ("Petition") filed by the Insurance Commissioner, and the Court having  
19 determined that the statutory requirements and grounds for the requested relief have  
20 been met, and that delay would endanger the interests of policyholders, creditors, and  
21 the public, and the Court being otherwise fully advised in the premises, now therefore

22 IT IS HEREBY ORDERED AS FOLLOWS:

23 1. Pursuant to Chapters 48.31 and 48.99 RCW, Insurance Commissioner  
24 Mike Kreidler, and his successor(s), is hereby appointed Statutory Receiver of Cascade  
25 National Insurance Company ("Cascade National"), Deputy Insurance Commissioner  
26 James T. Odiorne is hereby appointed Receiver of Cascade National, and Marshall

1 McGinnis, Company Licensing Manager for the OIC, is hereby appointed Deputy  
2 Receiver of Cascade National. As used herein, the term "Receiver" includes the  
3 Statutory Receiver, the Receiver and the Deputy Receiver as appointed herein.

4       2. Pursuant to RCW 48.31.121 and other provisions of the Insurance Code,  
5 the Receiver shall forthwith take possession of all the Assets, books, records, files, and  
6 reinsurance recoverables, and all of the property, real and personal, contracts, and  
7 rights of action of Cascade National located in the State of Washington or elsewhere,  
8 ("Assets") and shall deal with the property and business of Cascade National in his  
9 own name or in the name of Cascade National in receivership. The Receiver shall  
10 conduct the business of Cascade National, and shall assess the financial condition and  
11 operations of the company to determine whether and/or what type of formal  
12 delinquency proceedings should be initiated; and the Receiver shall administer the  
13 Assets of Cascade National under the general supervision of the Court.

14       3. The Receiver is authorized to sue or defend on behalf of Cascade  
15 National, or to do so in the interest of Cascade National's policyholders, creditors, and  
16 the public in the courts, tribunals, agencies, and arbitration panels of this State and any  
17 other states, and to take such other actions as the nature of this cause and the interests  
18 of the policyholders, creditors, and the public may require.

19       4. Cascade National, by and through its directors, trustees, officers,  
20 members, employees, agents, attorneys, representatives, investors, creditors, and all  
21 other persons shall surrender to the Receiver forthwith its premises, Assets, records,  
22 and documents pertaining to the business and Assets of Cascade National. Cascade  
23 National and its directors, trustees, officers, employees, members, agents, attorneys,  
24 representatives, investors, creditors, and all other persons are commanded to  
25 peacefully deliver up and surrender to the Receiver or the Receiver's agents or  
26 attorneys, all the Assets and records of Cascade National, all keys to all Cascade

1 National premises and to safe deposit boxes, and to advise the Receiver of the  
2 combinations to any safes, safe-keeping devices, or restricted access entries of Cascade  
3 National.

4 5. Cascade National and its directors, trustees, officers, members,  
5 employees, agents, attorneys, representatives, investors, creditors, and all other persons  
6 are hereby enjoined and restrained from interfering with the Receiver's title,  
7 possession, control, and use of any and all, or any portion thereof, of the Assets of  
8 Cascade National; and from transferring, destroying, disposing of, removing, paying  
9 out, parting with, withdrawing, alienating or encumbering any of the Assets of  
10 Cascade National without the express written consent of the Receiver. Cascade  
11 National and its directors, trustees, officers, members, employees, agents, attorneys,  
12 representatives, investors, creditors, and all other persons are hereby enjoined and  
13 restrained from conducting the business of the company, except as authorized by the  
14 Receiver.

15 6. No bank, financial institution, or any other person having in their  
16 possession Assets or records belonging to Cascade National, or holding funds or  
17 deposits of Cascade National or any of its affiliates may offset said Assets, funds or  
18 deposits against any amounts owing to such bank, financial institution, or any other  
19 person without the express written consent of the Receiver.

20 7. The provisions of RCW 48.31.045 concerning legal actions in which  
21 Cascade National is a party or obligated to defend shall apply to these proceedings,  
22 including a stay of the action or proceeding for ninety (90) days and such additional  
23 time as is necessary for the Receiver to obtain proper representation and prepare for  
24 further proceedings. The Receiver is specifically authorized to pursue all claims  
25 against third parties on behalf of the receivership estate of Cascade National, and to  
26

1 take all action necessary to pursue such claims, including the hiring of outside counsel  
2 or other necessary professionals.

3 8. The Receiver shall keep accountings of the receivership proceedings of  
4 Cascade National, and render and file with the Court such accountings at such intervals  
5 as are deemed reasonable and/or necessary by the Receiver, or as requested by the  
6 Court.

7 9. Upon entry of this Order, title to all the Assets of Cascade National  
8 hereby vests in the Receiver by operation of law.

9 10. The Receiver is authorized and directed to administer the Assets of  
10 Cascade National and conduct the receivership proceedings under the provisions of  
11 Title 48 RCW applicable to delinquency proceedings.

12 11. Pursuant to Chapters 48.31 and 48.99 RCW, absent further order of this  
13 Court or the express written consent of the Receiver, all persons are enjoined and  
14 restrained from:

15 a. Instituting or further prosecuting any action, at law or in equity, or  
16 in other proceedings to determine, enforce, collect, or assert any claims against  
17 Cascade National, its Assets, or the Receiver;

18 b. Asserting or obtaining preferences, judgments, attachments,  
19 garnishments, or other liens or encumbrances, or making any levy against Cascade  
20 National, its Assets, or the Receiver;

21 c. Taking any action or interfering in any way with the Receiver's  
22 title, possession, or control of Cascade National, or its Assets;

23 d. Taking any other action that may lessen the value of Cascade  
24 National's Assets or prejudice the rights of Cascade National's creditors as a whole, its  
25 Assets, or the administration of the receivership proceeding; and  
26

1           e. Taking any action that may waste, or wasting, Cascade National's  
2 Assets, in whole or in part.

3           12. Any person who violates an injunction issued in this matter or this Order  
4 may be liable to the Receiver and the estate of Cascade National for reasonable costs  
5 and attorneys' fees incurred in enforcing the injunction or any costs related thereto and  
6 any reasonably foreseeable damages.

7           13. Any attachments, garnishments, or other liens or encumbrances, or levies  
8 made, created, or perfected against Cascade National, its Assets, or the Receiver on or  
9 after the date of Cascade National being placed in receivership are set aside, voided,  
10 expunged, and released. A copy of this Order, as determined to be appropriate by the  
11 Receiver, may be recorded in state or local offices where instruments affecting title to  
12 property are regularly filed.

13           14. To effectively and efficiently administer the Assets of Cascade National,  
14 the Receiver may require that any claim against Cascade National, its Assets or the  
15 Receiver must be raised or asserted within this receivership proceeding, and in such  
16 instance, all persons are hereby enjoined and restrained from asserting such claim  
17 against Cascade National, its Assets or the Receiver which arise out of or in  
18 connection with or as a result of this receivership, except insofar as such claim is  
19 brought in this proceeding.

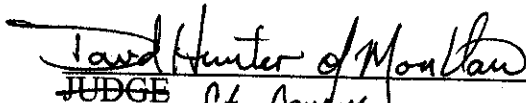
20           15. This Order shall be in effect until March 15, 2005. On motion of either  
21 party or on its own motion, the Court may from time to time hold hearings it deems  
22 desirable after such notice it deems appropriate, and may shorten, extend, or modify  
23 the terms of this Seizure Order. The Court shall vacate this Seizure Order if the  
24 Commissioner fails to commence a formal delinquency proceeding after having a  
25 reasonable opportunity to do so. An order of the Court pursuant to a formal  
26 delinquency proceeding vacates the Seizure Order.

1 16. An insurer subject to this *ex parte* Seizure Order may petition the Court  
2 at any time after the issuance of the Order for a hearing and review of the Order. The  
3 Court shall hold the hearing and review not more than fifteen (15) days after the  
4 request. A hearing so requested may be held privately in chambers, and it must be so  
5 held if the insurer proceeded against so requests.


6 17. The Clerk shall provide the Receiver with sixty (60) certified copies of  
7 this Order and additional copies as are needed by the Receiver without charge as  
8 required under RCW 48.31.230. In addition, filing fees for this action are waived for  
9 the Receiver pursuant to RCW 48.31.230.

10 18. This Court reserves jurisdiction to amend this Order or issue such further  
11 orders as it deems just, necessary, and appropriate.

12 **IT IS SO ORDERED** this 30<sup>th</sup> day of November, 2004.

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14   
15 JUDGE Ct. Comm.

16 Presented by:  
17 CHRISTINE O. GREGOIRE  
18 Attorney General

19   
20 CHRISTINA GERSTUNG BEUSCH  
21 WSBA # 18226  
22 Assistant Attorney General  
23 Attorneys for Office of the Insurance Commissioner  
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